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R.K., Appellant)	
)	
and)	Docket No. 11-1260
)	Issued: November 16, 2011
U.S. POSTAL SERVICE, POST OFFICE,)	
Pittsburgh, PA, Employer)	
)	

Case Submitted on the Record

Before:
 RICHARD J. DASCHBACH, Chief Judge
 COLLEEN DUFFY KIKO, Judge
 MICHAEL E. GROOM, Alternate Judge

On April 27, 2011 appellant filed a timely appeal from a February 10, 2011 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Because more than 180 days elapsed from the most recent merit decision of July 14, 2010 to the filing of this appeal, the Board lacks jurisdiction to review the merits of her claim pursuant to the Federal Employees' Compensation Act (FECA)¹ and 20 C.F.R. §§ 501.2(c) and 501.3.²

The issue is whether OWCP properly refused to reopen appellant's case for reconsideration of her claim under 5 U.S.C. § 8128(a).

² For OWCP decisions issued prior to November 19, 2008, a claimant had one year to file an appeal. An appeal of its decisions issued on or after November 19, 2008 must be filed within 180 days of the decision. 20 C.F.R. § 501.3(e) (2008).

FACTUAL HISTORY

Appellant, a 43-year-old postal clerk, filed a Form CA-2 claim for benefits on March 17, 2010, alleging that she developed a herniated disc condition causally related to employment factors.

On May 21, 2010 OWCP advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. It asked her to submit a comprehensive report from a treating physician describing her symptoms and the medical reasons for her condition, as well as an opinion as to whether her claimed condition was causally related to her federal employment. OWCP requested that appellant submit this evidence within 30 days.

Appellant submitted a February 22, 2010 surgical report from Dr. Mark A. Frye, a Board-certified family practitioner, who stated that she underwent a left L5-S1 microdiscectomy on January 12, 2010 due to a December 18, 2009 work injury. She underwent the procedure to ameliorate a left L5-S1 disc herniation. Dr. Frye opined that appellant had an employment-related condition which required corrective surgery.

By decision dated July 14, 2010, OWCP denied the claim, finding that appellant failed to submit sufficient medical evidence to establish that her herniated disc condition was related to her employment as a postal clerk.

On January 28, 2011 appellant requested reconsideration. She did not submit any additional medical evidence in support of her claim.

By decision dated February 10, 2011, OWCP denied appellant's application for review on the grounds that it did not raise any substantive legal questions or include new and relevant evidence sufficient to require review of the prior decision.

LEGAL PRECEDENT

Under 20 C.F.R. § 10.606(b), a claimant may obtain review of the merits of his or her claim by showing that OWCP erroneously applied or interpreted a specific point of law; by advancing a relevant legal argument not previously considered by OWCP; or by constituting relevant and pertinent evidence not previously considered by it.³ Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.⁴

ANALYSIS

In the present case, appellant requested reconsideration of the denial of her claim on January 28, 2011 by checking a box on an OWCP form indicating that she was requesting

³ 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

⁴ *Howard A. Williams*, 45 ECAB 853 (1994).

reconsideration of her claim. She did not submit any evidence or argument in support of her request for reconsideration. Appellant's request for reconsideration therefore did not show that OWCP erroneously applied or interpreted a specific point of law; or advance a relevant legal argument not previously considered by OWCP. Furthermore, she did not submit any new and relevant evidence in support of her claim. Appellant did not submit medical evidence which addresses the relevant issue of whether she sustained a herniated disc condition in the performance of duty. As her reconsideration request did not meet the requirements of 20 C.F.R. § 10.606(b), OWCP did not abuse its discretion in refusing to reopen her claim for a review on the merits.⁵

CONCLUSION

The Board finds that OWCP properly refused to reopen appellant's case for reconsideration on the merits of her claim under 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the February 10, 2011 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: November 16, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

⁵ The Board notes that appellant submitted additional evidence to the record following the February 10, 2011 OWCP decision. The Board's jurisdiction is limited to a review of evidence which was before OWCP at the time of its final review. 20 C.F.R. § 501(c).